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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,703	01/26/2004	W. Thomas Novak	6500-65537	1405
24197	7590	03/10/2006		
KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204			EXAMINER SHAHER, RICKY D	
			ART UNIT 2872	PAPER NUMBER

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/765,703

Applicant(s)

NOVAK, W. THOMAS

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) 18-38, 42, 43 and 47-93 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3-9, 11, 13, 17, 39-41 and 44-46 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 2, 10, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/26/04 & 6/10/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicant's election of invention I (claims 2 and 39-41) in the reply filed on 12/05/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Please be advised that the grouping of claims 47-50, 57 and 59-61 along with group III in the Office action mailed on 11/03/2005 was a typographic error in that the above mentioned claims clearly represent their own grouping (VII) as being drawn to a separate subcombination which would be classified in class 359, subclass 358 and group III would be classified in class 359, subclass 846.

2. This application is in condition for allowance except for the following formal matters:
3. Claims 2, 10, 12 and 14-16 are objected to because of the following informalities:

In claim 2, line 3, the language "the force controllers are" should be changed to read --the at least one force controller is--.

In claim 10, line 1, the language "each" should be inserted after "wherein:."

In claim 12, line 1, the language "the respective" should be changed to read --a respective--.

In claim 14, line 2, the language --a-- should be inserted after "by".

In claims 14, 15 and 16, line 2, the language "controllers" should be changed to read --controller--.

In claims 15 and 16, line 2, the language "the" should be changed to read --a--.

Appropriate correction is required.

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4. Claims 1, 3-9, 11, 13, 17, 39-41 and 44-46 are allowed.
5. This application contains claims 18-38, 42, 43 and 47-93 drawn to an invention nonelected invention and/or species. A complete reply to this communication must include the cancellation of the nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

6. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or fairly suggest an optical element for use in an adaptive-optical system comprising a deformable optical surface; an array of force devices coupled to the optical surface and configured to exert a respective force that imparts a respective localized deformation of the optical surface which collectively forms the optical surface into a desired shape; the force devices being arranged into sets or groups, each force device being a member of a designated first set or group and a designated second set or group different from the first set or group; at least one force controller coupled to the force devices of a respective first set or group and configured to cause the force devices of the respective first set or group to apply respective forces to the respective loci of the optical surface ; and at least one braking controller coupled to the force devices of a respective second set or group and configured to prevent, when activated, a change in force exerted by the force devices of the respective second set or group, as recited in claims 1, 39 and 44.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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7. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.


A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

March 05, 2006,

  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT ~~2872~~ 2872